

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

GARY GOLDMAN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Case No. 10-cv-3051
v.)	
)	Judge Robert W. Gettleman
DANIEL SPITZER, <i>et al.</i> ,)	
)	Magistrate Judge Mary M. Rowland
Defendants.)	

PLAINTIFFS' JUNE 3, 2013 SUPPLEMENTAL STATUS REPORT

Pursuant to the Court's Order, Plaintiffs, by and through their counsel, Katten & Temple LLP, respectfully submit this supplemental status report.

1. As previously reported, Plaintiffs settled with defendant Brian Donahue, the former auditor of the Draseena Funds, after a settlement conference with Magistrate Judge Nolan. Since the last status conference, Plaintiffs' counsel have received Donahue's first installments payments and have made the first pro rata distributions to the individual Plaintiffs. Payments are to be received on a monthly basis and distributed quarterly. Plaintiffs had agreed to submit a stipulation for dismissal within 90 days of executing the final settlement documents. Delays in receiving the initial installment payment caused Plaintiffs to postpone dismissal. A stipulation of dismissal will be filed before the June 11 status conference.

2. The only remaining defendants who have not defaulted are Emmanuel Sarris and Sarris Financial Group ("SFG").

3. As previously reported, proceedings against defendant Emanuel Sarris were stayed when he filed a bankruptcy petition in the United States Bankruptcy Court for the Southern District of Florida.

4. Plaintiffs have filed fraud claims effectively objecting to the discharge in the Sarris bankruptcy proceeding.

5. On July 27, 2012, the Securities and Exchange Commission filed suit against Sarris and SFG in the United States District Court for the Eastern District of Pennsylvania alleging that Sarris and SFG facilitated the Draseena Ponzi scheme by making numerous misrepresentations and omissions, including among other things also alleged by Plaintiffs in this case, that Sarris and SFG falsely representing to investors that Sarris was providing independent investment advice, failing to disclose that he had received \$1.8 million as an employee of one of the Draseena entities, and falsely claiming that he had verified Draseena's trading activity. The action was suspended after the SEC complaint was filed. The SEC lifted the suspension and served Sarris and SFG in September 2012. Sarris and SFG are represented by a major Philadelphia law firm, Ballard Spahr.

6. Two state court actions in Pennsylvania had also been filed based on the Draseena fraud: *Pawar, et al. v. Sarris and Sarris Financial Group, Inc.*, Court of Common Pleas, Bucks Co., Case No. 10-04772, and *Pasquale Panico United Credit Trust, et al. v. Sarris*, Court of Common Pleas, Montgomery County, Case No. 2010-01966.

7. Plaintiffs in the Pennsylvania cases have also filed claims in the Sarris bankruptcy. The Pawar claim of \$6.5 million is the largest claim by an individual investor. Plaintiffs here have claims totaling \$22 million, including direct claims by three Plaintiffs who dealt personally with Sarris and SFG.

8. On October 11, 2012, counsel for Sarris and SFG moved for permission to withdraw. That motion has been continued.

9. Plaintiffs and counsel for Sarris and SFG, including Sarris's bankruptcy counsel, have discussed settling all claims against both Defendants. Defendants insist that any such settlement be on a global basis and include the *Pawar* and *Panico* actions. Sarris has made a proposal, which the various plaintiffs are considering. (Plaintiffs' September 26, 2012 Supplemental Status Report informed the Court that the parties were contemplating mediation in October, 2012. This did not go forward because Sarris wanted to include the SEC and the SEC declined to participate. Sarris' current proposal does not involve the SEC in any global resolution.)

10. Plaintiffs received written discovery disclosures from SFG and participated with the *Pawar* plaintiffs in a 2004 examination of Sarris in an attempt to determine the extent of Sarris' personal assets.

11. Sarris' bankruptcy counsel has several times obtained extensions of the deadline to file a Plan of Reorganization, which would include resolution of the litigation claims against Sarris. The current deadline is June 7, 2013. The *Pawar*

plaintiffs recently obtained an extension of their time to file an objection to discharge to July 8, 2013.

12. As previously reported, final default judgment orders have been entered against all other parties (all of whom have defaulted), except defendant Alfred Gerebizza, who remains incarcerated in Chicago pending his criminal trial. Gerebizza has defaulted but due to potential issues raised by his prior bankruptcy, a final judgment order has not yet been prepared.

Dated: June 3, 2013

Respectfully submitted,

John M. George, Jr.
Nancy A. Temple
Katten & Temple LLP
542 S. Dearborn, 14th Floor
Chicago, IL 60605
(312) 663-0800
jgeorge@kattentemple.com
ntemple@kattentemple.com

/s/ Nancy A. Temple